

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 99-0467
INDIVIDUAL INCOME TAX
For the years 1996, 1997, and 1998**

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ISSUE

I. Individual Income Tax—Assessment of Unreported Indiana Income

Authority: IC 6-8.1-5-1(b); IC 6-3-2-1(a); IC 6-3-2-2(a).

Taxpayer protests the assessment of income tax on income earned in Indiana.

STATEMENT OF FACTS

Taxpayer, a nonresident, is the sole shareholder of an S-corporation that does landscape architecture and installs plants and construction materials. The business did contract landscaping in Indiana. Taxpayer did not file Indiana income tax returns for the income earned in Indiana during the years at issue. The Department conducted an audit of the business and issued income tax assessments against Taxpayer. Taxpayer filed a protest and a hearing was scheduled for April 12, 2005. Taxpayer was sent a letter by first class United States mail notifying her of the hearing date. Taxpayer did not appear before the Department at the hearing. This letter of findings is written based upon the information contained within the case file.

I. Individual Income Tax—Assessment of Unreported Indiana Income

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-3-2-1(a) imposes an income tax on nonresidents on the adjusted gross income derived from sources within Indiana. IC 6-3-2-2(a) defines "adjusted gross income derived from sources within Indiana" to mean and include income from doing business in Indiana as well as income from a trade or profession conducted in Indiana. It also includes compensation for labor or services rendered within Indiana, and income from intangible personal property if the receipt from the intangible is attributable to Indiana. The business in which Taxpayer is a sole shareholder did business in Indiana and earned income in Indiana; it did contract landscaping in Indiana. Taxpayer is required to declare and pay income tax on that Indiana income that passed through to her.

FINDING

For the reasons stated above, Taxpayer's protest is denied .